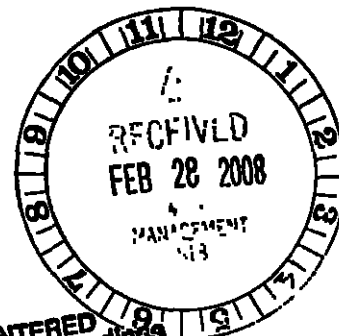


LAW OFFICE
JOHN D. HEFFNER, PLLC
1750 K STREET, N.W.
SUITE 350
WASHINGTON, D.C. 20006
PH: (202) 296-3333
FAX: (202) 296-3939

COPY



February 26, 2008

BY CERTIFIED MAIL
Honorable Anne Quinlan
Acting Secretary
Surface Transportation Board
395 E Street, S.W.
Washington, D.C. 20423

ENTERED
Office of Proceedings
FEB 23 2008
Part of
Public Record

221704
RE: STB Docket No. AB-882, Minnesota Commercial Railway
Company-Adverse Discontinuance-In Ramsey County, MN

221705
STB Docket No. AB-884, MT Properties, Inc.
-Adverse Abandonment-In Ramsey County, MN

Notice of Intent to File Adverse Abandonment Application


Dear Ms. Quinlan:

On behalf of the City of New Brighton, MN ("the City"), I am submitting a copy of its Notice of Intent to file an adverse application for abandonment and discontinuance authority on or about March 28, 2008, in the above-captioned proceeding.

Please note that the City has not served a copies on either the National Rail Passenger Corporation or the headquarters of all duly certified labor organizations that represent employees on the affected railroad inasmuch as no rail passenger service is provided over the line and no duly certified labor organizations represent employees on the affected railroad.

Please date stamp and return one copy of this letter and notice.

Sincerely yours,


John D. Heffner
Its Counsel

cc- service list
Mr John Gohmann
Mr. Lee Larson
Mr Grant Fernelius

SURFACE TRANSPORTATION BOARD

STB Docket No. AB-882

**MINNESOTA COMMERCIAL RAILWAY COMPANY
—ADVERSE DISCONTINUANCE - IN RAMSEY COUNTY, MN**

STB Docket No. AB-884

**MT PROPERTIES, INC.-ADVERSE
ABANDONMENT - IN RAMSEY COUNTY, MN**

NOTICE OF INTENT TO ABANDON AND DISCONTINUE SERVICE

The City of New Brighton, MN ("the City") gives notice that on or before March 28, 2008, it intends to file with the Surface Transportation Board, Washington, D.C. 20423, an application for permission to discontinue service on and abandon a line of railroad known as the Butcher's Spur that is owned by MT Properties, Inc. and operated by the Minnesota Commercial Railway Company ("MCRC"). The Butcher's Spur is located in the City of New Brighton. It commences in New Brighton from a turnout on MCRC's mainline and runs southeast approximately 3,664 feet to the western right-of-way line of Interstate Highway 35W. The line has no mileposts. It traverses through United States Postal Service ZIP Code 55112, and extends a distance of approximately 0.7 miles. There are no stations on the affected line.

The reason for the proposed discontinuance and abandonment is that the City wishes to acquire this portion of the right-of-way for a public purpose. That purpose is to redevelop this "Brownfield" property into a mixed-use development, including residential, office and commercial activities. Based on information in our possession, the line does not contain federally granted rights-of-way.

This line of railroad has not appeared on any system diagram map or narrative and the Board has granted a waiver of certain regulatory filing requirements relating to the preparation and filing of a system diagram map.

The City believes that there are no rail employees on the affected rail line. In any event, any affected railroad employees will be protected by the conditions imposed in Oregon Short Line R. Co.—Abandonment—Goshen, 360 I.C.C. 91 (1979).

The application will include the applicant's entire case for discontinuance and abandonment (case in chief). Any interested person, after the application is filed on or before March 28, 2008, may file with the Surface Transportation Board written comments concerning

the proposed discontinuance and abandonment or protests to it. These filings are due 45 days from the date of filing of the application.

All interested persons should be aware that following any abandonment of rail service and salvage of the line, the line may be suitable for other public use, including interim trail use. Any request for a public use condition under 49 U.S.C. 10905 (§1152.28 of the Board's rules) and any request for a trail use condition under 16 U.S.C. 1247(d) (§1152.29 of the Board's rules) must also be filed within 45 days from the date of filing of the application.

Persons who may oppose the discontinuance or abandonment but who do not wish to participate fully in the process by appearing at any oral hearings or by submitting verified statements of witnesses, containing detailed evidence, should file comments. Persons interested only in seeking public use or trail use conditions should also file comments. Persons opposing the proposed abandonment or discontinuance that do wish to participate actively and fully in the process should file a protest.

Protests must contain that party's entire case in opposition (case in chief) including the following:

- (1) Protestant's name, address and business.
- (2) A statement describing protestant's interest in the proceeding including:
 - (i) A description of protestant's use of the line,
 - (ii) If protestant does not use the line, information concerning the group or public interest it represents;
 - (iii) If protestant's interest is limited to the retention of service over a portion of the line, a description of the portion of the line subject to protestant's interest (with milepost designations if available) and evidence showing that the applicant can operate the portion of the line profitably, including an appropriate return on its investment for those operations;
- (3) Specific reasons why protestant opposes the application including information regarding protestant's reliance on the involved service. [This information must be supported by affidavits of persons with personal knowledge of the fact(s)].
- (4) Any rebuttal of material submitted by applicant.

In addition, a commenting party or protestant may provide a statement of position and evidence regarding:

- (i) Intent to offer financial assistance pursuant to 49 U.S.C. 10904,
- (ii) Environmental impact; and
- (iii) Impact on rural and community development
- (iv) Recommended provisions for protection of the interests of employees;
- (v) Suitability of the properties for other public purposes pursuant to 49 U.S.C. 10905, and
- (vi) Prospective use(s) of the right-of-way for interim trail use and rail banking under 16 U.S.C. 1247(d) and §1152.29.

A protest may demonstrate that: (1) the protestant filed a feeder line application under 49 U.S.C. 10907; (2) the feeder line application involves any portion of the rail line involved in the abandonment or discontinuance application; (3) the feeder line application was filed prior to the

date the abandonment or discontinuance application was filed; and (4) the feeder line application is pending before the Board

Written comments and protests will be considered by the Board in determining what disposition to make of the application. The commenting party or protestant may participate in the proceeding as its interests may appear.

If an oral hearing is desired, the requester must make a request for an oral hearing and provide reasons why an oral hearing is necessary. Oral hearing requests must be filed with the Board no later than 10 days after the application is filed.

Those parties filing protests to the proposed discontinuance and abandonment should be prepared to participate actively either in an oral hearing or through the submission of their entire opposition case in the form of verified statements and arguments at the time they file a protest. Parties seeking information concerning the filing of protests should refer to §1152.25.

Written comments and protests including all requests for public use and trail use conditions, should indicate the proceeding designation STB Nos. AB-882 and 884 and must be filed with the Secretary, Surface Transportation Board, Washington, D.C. 20423, no later than May 15, 2008. Interested persons may file a written comment or protest with the Board to become a party to this discontinuance and abandonment proceeding. A copy of each written comment or protest shall be served upon the representative of the applicant, John D. Heffner, 1750 K Street, N.W., Suite 350, Washington, D.C. 20006, (202) 296-3334. The original and 10 copies of all comments or protests shall be filed with the Board with a certificate of service. Except as otherwise set forth in part 1152, each document filed with the Board must be served on all parties to the abandonment proceeding. 49 CFR 1104.12(a).

The line sought to be abandoned (or discontinued) will be available for subsidy or sale for continued rail use, if the Board decides to permit the abandonment (or discontinuance), in accordance with applicable laws and regulations (49 U.S.C. 10904 and 49 CFR 1152.27). No subsidy arrangement approved under 49 U.S.C. 10904 shall remain in effect for more than 1 year unless otherwise mutually agreed by the parties (49 U.S.C. 10904(f)(4)(B)). Applicant will promptly provide upon request to each interested party an estimate of the subsidy and minimum purchase price required to keep the line in operation. The applicant's representative to whom inquiries may be made concerning sale or subsidy terms is John D. Heffner, 1750 K Street, N.W., Suite 350, Washington, D.C. 20006, (202) 296-3334.

Persons seeking further information concerning abandonment procedures may contact the Surface Transportation Board or refer to the full abandonment or discontinuance regulations at 49 CFR part 1152. Questions concerning environmental issues may be directed to the Board's Section of Environmental Analysis

A copy of the application will be available for public inspection on or after March 30, 2008, at the offices of Mr. Grant Fernelius, Community Development director, City of New Brighton, 803 Old Highway 8 NW, New Brighton, MN 55112, and at the offices of the Minnesota Commercial Railway, 508 Cleveland Avenue North, St. Paul, MN 55114 during

normal business hours of 9AM and 5PM. The City shall furnish a copy of the application to any interested person proposing to file a protest or comment, upon request

An environmental assessment (EA) (or environmental impact statement (EIS), if necessary) prepared by the Section of Environmental Analysis will be served upon all parties of record and upon any agencies or other persons who commented during its preparation. Any other persons who would like to obtain a copy of the EA (or EIS) may contact the Section of Environmental Analysis. EAs in these abandonment proceedings normally will be made available within 33 days of the filing of the application. The deadline for submission of comments on the EA will generally be within 30 days of its service. The comments received will be addressed in the Board's decision. A supplemental EA or EIS may be issued where appropriate

CERTIFICATE OF SERVICE

I, John H. Heffner, do hereby certify that a true copy of the foregoing Notice of Intent to Abandon and Discontinue Service was served on February 26, 2008 to the following by first class United States and Certified Mail:

Minnesota Public Utilities Commission
121 7th Place E – Suite 350
St Paul, MN 55101-2147

UM Extension Ramsey County
2020 White Bear Avenue N
St Paul, MN 55109-3714

National Park Service
Midwest Region
6001 Riverfront Drive
Omaha, NE 68102

U.S. Department of Transportation
Federal Railroad Administration
1120 Vermont Avenue, NW
Washington, DC 20590

U.S. Department of Agriculture
Chief of the Forest Service
1400 Independence Avenue, SW
Washington, DC 20250-0003


MTMCTEA
Attn. Railroads for National Defense
720 Thimble Shoals Boulevard – Suite 130
Newport News, VA 23560-2574

U.S. Department of Interior
National Park Service
Recreation Resources Assistance Div.
1849 C Street, NW
Washington, DC 20240

U.S. Railroad Retirement Board
844 North Rush Street
Chicago, IL 60611-2092

Honorable Tim Pawlenty (Certified Mail)
Governor of Minnesota
130 State Capitol
75 Rev. Dr. Martin Luther King Boulevard
St. Paul, MN 55155

Honorable Anne K. Quinlan (Certified Mail)
Secretary
Surface Transportation Board
395 E Street, SW – Suite 1260
Washington, DC 20423-0001



John D. Heffner